

UNITED STATES DISTRICT COURT
DISTRICT COURT OF SOUTH DAKOTA
WESTERN DIVISION



United States of America,)
for the use of Arleth &)
Associates, Inc. and McDirt)
Excavation, Inc.,)
)
Plaintiffs,)
)
vs.)
)
Granite Re, Inc.)
)
Defendant.)

Civil No. 11-5061

COMPLAINT

1. This is a Miller Act action under 40 U.S.C. §§ 3131-3134.
2. This Court has jurisdiction under 28 U.S.C. § 1331 and 40 U.S.C. §§ 3131-3134.
3. Plaintiffs, Arleth & Associates, Inc. ("Arleth"), and McDirt Excavation, Inc. ("McDirt"), are South Dakota corporations.
4. Defendant, Granite Re, Inc. ("Granite Re") is a surety licensed to do business in South Dakota.

ARLETH CLAIM

5. Arleth furnished labor and material in carrying out work provided for in a contract between Red Wilk Construction, Inc. ("Red Wilk") and the United States Department of Transportation, Federal Highway Administration, Contract No. DTFH68-10-C-00010, in Pennington County, South Dakota.

7. Arleth was a subcontractor of Red Wilk when Arleth furnished labor and material in carrying out work provided in this contract.

8. Granite Re furnished a payment bond to Red Wilk under 40 U.S.C. § 3131 for this contract.

9. On or about December 20, 2010, Arleth did or performed the last of the labor or furnished or supplied the material for which this claim is made.

10. Arleth has not been paid in full within 90 days after Arleth did or performed the last of the labor or furnished or supplied the material for which this claim is made.

11. Arleth brings this action on the payment bond for the unpaid amount of \$27,586.80 at the time this action is brought.

12. As a result, Granite Re owes Arleth the amount of \$27,586.80.

McDIRT CLAIM

13. McDirt furnished labor and material in carrying out work provided for in a contract between Red Wilk and the United States Department of Transportation, Federal Highway Administration, Contract No. DTFH68-10-C-00010, in Pennington County, South Dakota.

14. McDirt was a subcontractor of Red Wilk when McDirt furnished labor and material in carrying out work provided in this contract.

15. Granite Re furnished a payment bond to Red Wilk under 40 U.S.C. § 3131 for this contract.

16. On or about the end of October or early November, 2010, McDirt did or performed the last of the labor or furnished or supplied the last of the material for which this claim is made.

17. McDirt has not been paid in full within 90 days after McDirt did or performed the last of the labor or furnished or supplied the material for which this claim is made.

18. McDirt brings this action on the payment bond for the unpaid amount of \$144,318.74 at the time this action is brought.

19. As a result, Granite Re owes McDirt the amount of \$144,318.74.

WHEREFORE, Plaintiffs prays as follows:


1. For Judgment in favor of Arleth and against Defendant, Granite Re, Inc., in the amount of \$27,586.80, and any other amounts established and determined by the trier of fact;
2. For Judgment in favor of McDirt and against Defendant, Granite Re, Inc., in the amount of \$144,318.74, and any other amounts established and determined by the trier of fact;
3. For disbursements, costs, prejudgment and post judgment interest, and attorney fees; and
4. For such other and further relief as the Court deems just under the circumstances.

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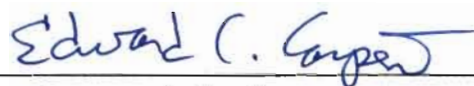
**PLAINTIFF DEMANDS TRIAL BY JURY
ON ANY ISSUE TRIABLE AS A MATTER OF
RIGHT TO A JURY**

Dated this 26 day of July, 2011.

BANGS, McCULLEN, BUTLER,
FOYE & SIMMONS, L.L.P.

By: 
Terry L. Hofer
Attorneys for Arleth
333 W. Blvd., Ste. #400
P.O. Box 2670
Rapid City, SD 57709
(605) 343-1040

COSTELLO, PORTER, HILL,
HEISTERKAMP, BUSHNELL &
CARPENTER, L.L.P.

By: 
Edward C. Carpenter
Attorneys for McDirt
704 St. Joseph Street
P.O. Box 290
Rapid City, SD 57709
(605) 342-2410